

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
RICARDO D.,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
-----X

ORDER

20 Civ. 07333 (GBD) (GRJ)

GEORGE B. DANIELS, United States District Judge:

Plaintiff Ricardo D.¹ brings this action against Defendant Commissioner of Social Security (the “Commissioner”) under the Social Security Act, 42 U.S.C. § 405(g), seeking review of an administrative law judge’s (“ALJ”) decision to terminate Plaintiff’s disability insurance benefits. (See Complaint, ECF No. 2.) On April 25, 2022, the parties filed a joint stipulation in lieu of motions for judgment on the pleadings. (See Joint Stipulation, ECF No. 34.) There, Defendants sought an order affirming the ALJ’s decision and Plaintiff requested an award of benefits or, in the alternative, remand for a new hearing. (*Id.* at 60.)

Before this Court is Magistrate Judge Gary Jones’s August 22, 2022 Report and Recommendation (the “Report”), recommending that this Court grant Defendant judgment on the pleadings and dismiss this case. (See Report, ECF No. 35, at 23.) Magistrate Judge Jones informed the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.*) Plaintiff filed timely objections on September 15, 2022. (Pl.’s Objs. to the Mag. J.’s R. & R. (“Plaintiff’s Objections.”), ECF No. 40.) Having reviewed Magistrate

¹ Plaintiff’s name has been partially redacted in compliance with Federal Rule of Civil Procedure 5.2 (c)(2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States.

Judge Jones’s Report as well as Plaintiff’s objections, this Court ADOPTS the Report in full and overrules Plaintiff’s objections. Accordingly, Plaintiff’s motion for an award of benefits, or in the alternative, remand is DENIED and Defendant’s motion for judgment on the pleadings is GRANTED.

A court “may accept, reject, or modify, in whole or in part, the findings or recommendations” set forth in a magistrate judge’s report. 28 U.S.C. § 636(b)(1)(C). The court must review *de novo* the portions of a magistrate judge’s report to which a party properly objects. *Id.* The court, however, need not conduct a *de novo* hearing on the matter. *See United States v. Raddatz*, 447 U.S. 667, 675–76 (1980). Rather, it is sufficient that the court “arrive at its own, independent conclusion” regarding those portions of the report to which objections are made. *Nelson v. Smith*, 618 F. Supp. 1186, 1189–90 (S.D.N.Y. 1985) (citation omitted).

Portions of a magistrate judge’s report to which no or “merely perfunctory” objections are made are reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). The clear error standard also applies if a party’s “objections are improper—because they are conclusory, general, or simply rehash or reiterate the original briefs to the magistrate judge.” *Stone v. Comm’r of Soc. Sec.*, No. 17 Civ. 569 (RJS), 2018 WL 1581993, at *3 (S.D.N.Y. Mar. 27, 2018) (citation omitted). Clear error is present when “upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed.” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation omitted).


Plaintiff’s objections merely reiterate (and in some cases, copy verbatim) arguments he previously presented to Magistrate Judge Jones. (*Compare* Joint Stip. at 27–30, 34–46, 48–56 *with* Plaintiff’s Objections at 14–34.) Accordingly, this Court reviews the Report for clear error. As stated more fully in the Report, Magistrate Judge Jones concluded that the ALJ’s decisions

regarding plaintiff's medical improvement and residual functional capacity were supported by substantial evidence, that the ALJ fully satisfied her duty to develop the record, and that Plaintiff received a fair hearing. (Report at 11-22.)

Magistrate Judge Jones's findings regarding the administrative law judge's decision are well-reasoned and grounded in fact and law. This Court has carefully reviewed Magistrate Judge Jones's comprehensive Report and finds no error, clear or otherwise. Accordingly, Plaintiff's objections are **OVERRULED** and Magistrate Judge Jones's Report is **ADOPTED**. The Commissioner's decision is affirmed and Plaintiff's request for an award of benefits, or in the alternative, remand is denied. This action is hereby dismissed.

Dated: September 29, 2022
New York, New York

SO ORDERED.



GEORGE B. DANIELS
United States District Judge